IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4389 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DISTRICT AGRICULTURAL OFFICER - Petitioner(s)

Versus

KARAMSHIBHAI GOVINDBHAI C/O BM MAVANI - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

1.0 The petitioner Panchayat has challenged the award dated 23.02.1999 passed by the Labour Court, Rajkot, in

Reference (LCR) No.2242 of 1988, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein was employed as a daily wager in a Farm by the petitioner Panchayat. The said Farm was owned by the State Government and its administration was handed over to the petitioner Panchayat vide Circular dated 12.01.1971.

2.1 It is the case of the petitioner that the respondent had stopped to attend the work w.e.f. 07.03.1986 and had, thereafter, approached the Labour Court by way of filing a reference praying for reinstatement with back wages. The Labour Court, by impugned award, allowed the said reference. Hence, this petition.

3.0 Mr.H S Munshaw learned advocate for the petitioner has contended that the respondent was provided with work on daily wage basis in the Farm owned by the State Government. He has submitted that the said Farm was only administered and managed by the petitioner Panchayat and since it was closed by the State Government vide Circular dated 18.04.1985, the workmen were required to be

retrenched. He has, therefore, submitted that the Labour Court has committed an error in granting reinstatement to the respondent.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. In the impugned award, the Labour Court has recorded a finding that the respondent workman had worked for more than 240 days in a year with the petitioner. Moreover, the contention of the petitioner that the respondent was doing work intermittently was also not accepted. In my opinion, the Labour Court was completely justified in granting reinstatement with continuity of service to the respondent.

4.1 However, the Labour Court has not given any cogent reasons as to on what basis it has awarded full back wages to the respondent. It has proceeded only on the premise that the respondent workman hardly got work for 8 to 10 days in a month. On such presumption, the Labour Court ought not to have awarded back wages to the respondent. Hence, the direction qua granting full back wages is required to be quashed and set aside.

5.0 In the result, this petition is partly allowed. The impugned award of the Labour Court qua directing the petitioner to reinstate the respondent workman with continuity of service is confirmed; and, the direction qua granting full back wages is quashed and set aside. Since it is stated that the respondent has reached superannuation on 30.04.2000, the petitioner is directed to give all benefits, including the benefits of continuity of service, to the respondent workman from the date of the publication of the award till the date of his superannuation, within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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